

IN THE UNITED STATES DISTRICT COURT **RECEIVED**  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

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**JO SPAINHOWARD,**

**Plaintiff,**

**v.**

**GREEN TREE FINANCE, LLC.,  
et al.,**

**Defendant.**

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DEBRA P. HACKETT, CLK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

Case Number 1:05cv517

**NOTICE OF REMOVAL**

COMES NOW Green Tree Servicing LLC ("Green Tree"), incorrectly identified as Green Tree Finance LLC, and hereby gives notice of removal, without waiving its right to compel arbitration, of the above-styled action from the Circuit Court of Coffee County, Alabama, to the United States District Court for the Middle District of Alabama, Southern Division. As grounds for its removal, the Defendant avers as follows:

1. According to the Complaint, the Plaintiff, Jo Spainhoward, is a resident citizen of the State of Alabama. [See Compl., ¶ 3].

2. The Complaint names as a Defendant "Green Tree Finance LLC" and identifies this Defendant as the "finance company who held the secured interest on the Plaintiff's 1998 mobile home." [See Compl., ¶ 1]. The correct name of the company holding the security interest in the Plaintiff's manufactured home is Green Tree Servicing LLC. [See Affidavit, attached to Green Tree's Mtn. Compel Arb. as Ex. 1]. Green Tree Servicing LLC is a

Delaware limited liability company with its principal place of business in St. Paul, Minnesota.

3. On or about May 2, 2005, the above-styled action was commenced against Green Tree and certain fictitious party defendants in the Circuit Court of Coffee County, Alabama.

4. The Summons and Complaint have not yet been properly served on Green Tree. Attached hereto as **Exhibit A** is a copy of the Complaint in this matter.

5. The only proceeding that has taken place in state court as to this matter is the filing of the Complaint.

6. This action is subject to removal on the basis of diversity of citizenship in that the Plaintiff is a resident citizen of the State of Alabama and Defendant Green Tree is a Delaware limited liability company with its principal place of business in Minnesota.

7. In her Complaint, the Plaintiff brings claims of trespass, conversion, fraud, and wrongful repossession and seeks "judgment against the Defendants in the amount of \$60,000 compensatory damages, \$150,000 in punitive damages, plus costs", thereby making the amount in controversy in excess of the jurisdictional amount of this Court. [See Compl., WHEREFORE clauses, pp. 2-6]

8. This Petition is filed with this Court within 30 days of Green Tree's receiving documents putting Green Tree on notice of the availability of removal of the case.

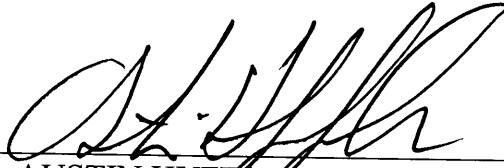
9. This Court has original jurisdiction of the above-entitled action pursuant to 28

U.S.C. § 1332, and since Green Tree Servicing LLC was not a resident citizen of the State of Alabama, wherein the above-entitled action is pending, removal of this action to this Court is proper pursuant to 28 U.S.C. § 1441(a). The residency of the fictitious defendants is ignored for purposes of determining federal diversity jurisdiction.

10. Notice of removal of the above-styled action has been given to the Clerk of the Circuit Court of Coffee County, Alabama, and to the Plaintiff, as required by 28 U.S.C. § 1446(d). [See **Exhibit B**, attached hereto].

WHEREFORE, Green Tree Servicing LLC prays that this Court will take jurisdiction of this matter.

Respectfully submitted this \_\_\_\_\_ day of June, 2005.



R. AUSTIN HUFFAKER, JR. (ASB-3422-F55R)  
Attorney for Defendant

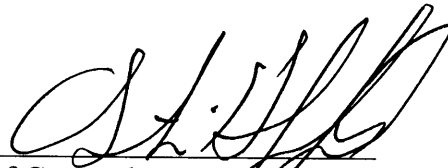
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**CERTIFICATE OF SERVICE**

I hereby certify that I have this date served the above and foregoing upon:

William J. Moore, Esq.  
P.O. Box 310985  
Enterprise, AL 36331

by placing a true copy of same in the United States mail, postage prepaid, this \_\_\_\_ day of June, 2005.

  
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Of Counsel